

AO 441 (Rev. 8/01) Third Party Summons in a Civil Action

UNITED STATES DISTRICT COURT

FILED
IN CLERKS OFFICE

District of
MASSACHUSETTS

2004 OCT -4 A 11:43

PLAINTIFF

BABCOCK BORSIG POWER GmbH

V. DEFENDANT AND THIRD PARTY PLAINTIFF
BABCOCK POWER, INC.

THIRD PARTY SUMMONS IN A
CIVIL ACTION

Case Number: 04-10825-RWZ

V. THIRD PARTY DEFENDANT

BABCOCK BORSIG, AG

To: Name and address of Third Party Defendant

Babcock Borsig AG
375 Duisburger Street
Oberhausen, Germany

YOU ARE HEREBY SUMMONED and required to serve on

PLAINTIFF'S ATTORNEY (name and address)

Kenneth M. Bello
BELLO BLACK LLP
535 Boylston Street
Suite 1102
Boston, MA 02116

DEFENDANT AND THIRD-PARTY PLAINTIFF'S ATTORNEY
(name and address)

Steven J. Comen
GOODWIN PROCTER LLP
Exchange Place
53 State Street
Boston, MA 02109

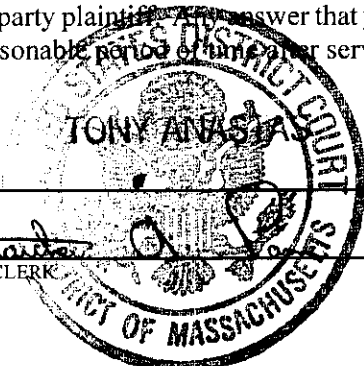
an answer to the third-party complaint which is served on you with this summons, within 20 days after the service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default may be taken against you for the relief demanded in the third-party complaint. There is also served on you with this summons a copy of the complaint of the plaintiff. You have the option of answering or not answering the plaintiff's complaint, *unless* (1) this is a case within Rule 9(h) Federal Rules of Civil Procedure, *and* (2) the third-party plaintiff is demanding judgment against you in favor of the original plaintiff under the circumstances described in Rule 14(c) Federal Rules of Civil Procedure, in which situation you are required to make your defenses, if any, to the claim of plaintiff as well as to the claim of the third-party plaintiff. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK

(By) DEPUTY CLERK

September 15, 2004

DATE



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RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER	TITLE	
<p><i>Check one box below to indicate appropriate method of service</i></p> <p><input type="checkbox"/> Served personally upon the third-party defendant. Place where served:</p> <p><input type="checkbox"/> Left copies thereof at the third-party defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:</p> <p><input type="checkbox"/> Returned unexecuted:</p> <p><input type="checkbox"/> Other (specify):</p>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		
<p><u>ACKNOWLEDGEMENT OF SERVICE</u></p> <p>Received this <u>1st</u> day of <u>October</u>, 2004.</p> <p><u>(*) JMB/mbh</u> (Josiah M. Black, BBO # 632690) Authorized Agent for Service of Process</p> <p><u>(*) Without assenting to the exercise of personal jurisdiction over Babcock Bursig AG, per letter agreement dated 8/31/04. JMB</u></p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.